

USE OF DEADLY FORCE INVESTIGATION
THE STATEMENT OF OFFICER IN CONNECTION WITH U.D.F.I.T.

Date: 1-11-11

Time: 1130

The following is the statement of: **PO. RICHARD RUSNAK #849**

Age: 35 Sex: M Race: W DOB: -75

APPOINTMENT DATE: 9-28-98

BADGE NUMBER: 849

EMPLOYED: Department of Public Safety, Division of Police

ASSIGNED: 4TH DISTRICT BASIC PATROL B PLATOON ADDRESS: 9333 KINSMAN.

CITY: CLEVELAND STATE: OHIO PHONE: 623-5400

REGARDING THE INVESTIGATION OF: USE OF DEADLY FORCE INCIDENT NUMBER 10-23
 I AM MAKING THIS STATEMENT PURSUANT TO THE ORDERS OF A LAWFUL SUPERVISORY OFFICER. I MAKE THIS STATEMENT PURSUANT TO THE ESTABLISHED PRINCIPLES OF GARRITY V.S. NEW JERSEY 385 S. CT. (1967). I DO NOT WAIVE MY LEGAL RIGHTS, NOR DO I CONSENT TO THE AUDIO OR VIDEO RECORDING OF MY STATEMENT.

Q: What can you tell us about the incident that occurred at E. 114th & Benham Ave. on Friday December 31, 2010 at approximately 2045 hours?

A: I was assigned to Z/C 4B25 in company with PO Merritt #2230. At approximately 2045 hours we were enroute to a code 2 radio assignment when I heard Z/C 4B24 broadcast that they had a male resisting at E. 113th & Benham. I broadcast and asked if they were okay but I didn't receive any response. I then heard other car's broadcasting and they also never received a response so we began to head to that area. While we were enroute I heard a broadcast from 4B24 that they were fighting with a male and their taser's were not working. We continued to the area and when we arrived we observed Z/C 4B25 unoccupied stopped behind another vehicle. I observed people on the street and they were pointing to the east towards E. 114th. We then began to head east on Benham and I exited the Z/C and began to look for the officers while PO Merritt continued driving east on Benham. At this time other Z/C's began to arrive and I believe I broadcast that they were on E. 114th.

I began to run towards E. 114th and when I got to the corner I observed PO Chapman & PO Blain were on the ground struggling with a male. This was about six houses south on E. 114th St. I ran and began to assist them with the male and we were trying to subdue him and handcuff him. The male was violently resisting and wasn't listening to the commands telling him to stop. He was kicking his legs and rolling around on the ground. There were other officers on the scene. We were all trying to subdue him but it was very difficult as he was very strong and he continued to resist violently. I was trying to hold his right arm but he was still rolling and fighting. PO Blain was trying to put the cuffs on the male while the rest of us were just trying to hold him down and get his hands behind him. He was still was resisting violently, kicking and rolling around.

We must have struggled with the male for at least two to three minutes and we were finally able to get him handcuffed. As we backed off I tried to search his person for weapons but he was rolling around on the ground and I wasn't able to check him for any weapons. This continued for a short time until I picked the male up off the ground. Me and another officer, I believe it was PO Melendez picked him up and leaned him on a wheel chair ramp that was on the front of the house.

Q: Having read your statement do you find it to be true?

A: YESSignature: Richard Rusnak #849Witness/Relationship: Sgt. Michael Rybarczyk #9911 Internal Affairs UnitWitness/Relationship: Attorney Patrick D'AngeloWitness/Relationship: PO Jeff Fullmer #654 CPPATaken by: Det. Henry Veverka #607Taken at: Homicide Unit

Date: 1-11-11 Time: 1240

**PLAINTIFF'S
EXHIBIT**

29

001130

USE OF DEADLY FORCE INVESTIGATION
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I tried to pat him down but the male was still combative and was kicking backwards at us. This went on for another minute or so and I was unable to properly search him so we placed him back on the ground face down and we held him while and I was able to search him for any weapons with the assistance of other officers. During this search the male was still combative, wiggling around on the ground, kicking his feet and resisting violently. When I was done searching the male PO Blain and myself picked up the male off the ground. The male was refusing to walk and was still resisting so we carried him to the Z/C in an arm bar type of escort and carried him to the Z/C. We told the male to get into the Z/C but he refused and was continuing to resist and wouldn't get into the car.

At this point a crowd began to form and with it being New Years Eve there were multiple gunshots going off in the near area. PO Blain and I believe PO Kincaid went to the passenger rear door of our Z/C and were able to pull the male into the rear of the Z/C. At this point I was calling for EMS to respond to the scene because departmental policy mandates that EMS is to be notified when an individual is tasered. They were able to get the male into the rear of our Z/C and the doors were shut. The male was up on his knees in the back of the Z/C and he was screaming and yelling and was kicking the driver's side door. This went on repeatedly for a couple of minutes. The rear windows had been rolled down so the male was able to get some air.

The male finally calmed down so I opened the rear passenger door and asked the male if he had been taking drugs, or had he been drinking and why was he acting so crazy. The male didn't answer any of my questions. I did notice that the male's eyes were glazed over and in my experience I felt that he may be under the influence of PCP. I continued to ask him what he was on but he never responded to my questions. He was mumbling and I really couldn't understand what he was saying. I made a broadcast and asked if EMS was responding and radio advised us that they were and radio asked me how old the male was, whether he was conscious and breathing. I kept the Z/C door open and then I heard EMS on the next street. PO Merritt, myself and another officer, I don't know who, pulled the male out of the rear seat of the Z/C through the driver's side rear door. The male wasn't cooperating with us; he was stiffening up his muscles, making his body rigid. We placed the male on his knees and he was upright, gazing up at the sky. I again noticed the glazed look on the male. EMS pulled up and came to the male. I advised EMS what had happened and that he had been tased. One of the paramedics felt the male's pulse and advised us that the pulse was weak. EMS returned to the ambulance and returned with a gurney.

Q: Having read your statement do you find it to be true?

A: yesSignature: Richard Rusnak #849Witness/Relationship: Sgt. Michael Rybarczyk #9911 Internal Affairs UnitWitness/Relationship: Attorney Patrick D'AngeloWitness/Relationship: PO Jeff Fullmer #654 CPPATaken by: Det. Henry Veverka #607Taken at: Homicide Unit

Date: 1-11-11 Time: 1240

001131

**USE OF DEADLY FORCE INVESTIGATION
THE STATEMENT OF OFFICER IN CONNECTION WITH U.D.F.I.T.**

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The following is the statement of: **PO. RICHARD RUSNAK #849**

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ASSIGNED: 4TH DISTRICT BASIC PATROL B PLATOON ADDRESS: 9333 KINSMAN.

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I assisted one of the paramedics in picking up the male from the ground and placed him on the gurney. The male was un-handcuffed from the rear and then each wrist was handcuffed to each side of the gurney, using two sets of handcuffs. EMS wheeled the male to the ambulance and placed him inside. At this point one of the paramedics told us that the male wasn't breathing and asked us to remove his handcuffs. I went in the ambulance and removed both sets of handcuffs. I then assisted EMS by handing them items that they asked for. I assisted EMS in cutting off the male's clothing and generally followed their directions. EMS began to work on him. One of the paramedics asked us to notify Fire Rescue so one of the other officers called radio. Fire arrived shortly after that and I stepped out of the ambulance and they eventually left and transported the male to University Hospital.

Q: What were you wearing that evening?

A: I was wearing my departmental issued uniform consisting of a long sleeve blue shirt with CPD patches on the shoulder and blue trousers. I was wearing a leather jacket with CPD patches on each shoulder and by badge affixed to my left chest. I had my departmental issued holster, full duty belt, two extra magazines in the pouch, and two sets of handcuffs in a pouch. A radio holder with a portable radio and a taser. I had my departmental issued Glock 9MM model 17 serial number FTX533 loaded with one round in the chamber and 17 live rounds in the magazine. I was wearing my departmental issued ballistic vest.

Q: Did you fire your weapon or your taser that night?

A: No I did not and my weapon was checked on scene and my taser was downloaded at the District.

Q: Can you describe how the male was laying in the rear of the Z/C?

A: He was rolling around at different times. He was on his knees, on both sides and he was really just rolling around. When he calmed down he was lying on his left side, with his back towards the front of the Z/C, head on the passenger side facing towards the rear of the Z/C kind of like in a fetal position.

Q: Did the male ever make any requests or state that he needed medical attention.

A: No.

Q: Did the male appear to be breathing when EMS arrived?

A: Yes.

Q: Did you know this male or ever have any contact with him in the past?

A: Not that I know of.

Q: Were you injured?

A: Not that I am aware of at this time.

Q: Having read your statement do you find it to be true?

A: yes

Signature: [Signature] 849

Witness/Relationship: Sgt. Michael Rybarczyk #9911 Internal Affairs Unit [Signature]

Witness/Relationship: Attorney Patrick D'Angelo [Signature]

Witness/Relationship: PO Jeff Fullmer #654 CPPA [Signature] 654

Taken by: Det. Henry Veverka #607 [Signature]

Taken at: Homicide Unit Date: 1-11-11 Time: 001132

PLAINTIFF'S
EXHIBIT

29 RUSNAK
8-29-12

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Q: Were you carrying any secondary weapons?

A: No.

Q: What were the lighting conditions that night?

A: It was dark but there street lights.

Q: Having read your statement do you find it to be true?

A: yes

Signature: *Richard Rusnak* 849

Witness/Relationship: Sgt. Michael Rybarczyk #9911 Internal Affairs Unit *Michael Rybarczyk*

Witness/Relationship: Attorney Patrick D'Angelo *Patrick D'Angelo*

Witness/Relationship: PO Jeff Fullmer #654 CPPA *Jeff Fullmer* 654

Taken by: Det. Henry Veverka #607 *Henry Veverka*

Taken at: Homicide Unit

Date: 1-11-11 Time: 001133
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